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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

ALABAMA 26 P 3: 06  
2010 JUN 26 10:00 AM  
U.S. DISTRICT COURT  
MONTGOMERY, ALABAMA

JOHNSON OUTDOORS INC. and )  
JOHNSON OUTDOORS MARINE )  
ELECTRONICS, INC. )

Plaintiffs, )

v. )

NAVICO, INC. and )  
SPORTSMAN'S OUTFITTERS, L.L.C. )

Defendants. )

Civil Action No.: 2:10-cv-67-WKW-CSC

JURY TRIAL DEMANDED

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiffs, Johnson Outdoors Inc. ("Johnson Outdoors") and Johnson Outdoors Marine Electronics, Inc., d/b/a Humminbird ("Humminbird" and together with Johnson Outdoors, "Plaintiffs"), for their Complaint against Navico, Inc. ("Navico") and Sportsman's Outfitters, L.L.C. (collectively "Defendants"), hereby allege as follows:

**Nature of the Action**

1. This is an action against Navico, Inc. and Sportsman's Outfitters, L.L.C. for patent infringement.

2. In the early 2000s, Humminbird employees invented a new system, to be mounted to a boat, employing side scan sonar beams to locate fish and underwater structures, and to display them in detailed and recognizable images. On August 2, 2004, Johnson Outdoors filed U.S. Provisional Patent Application No. 60/598,326, and on August 2, 2005 it filed U.S. Patent

Application No. 11/195,107 (the “‘107 application”) claiming priority therefrom, directed to its side scan sonar technology. The ‘107 application issued on January 26, 2010, as United States Patent No. 7,652,952 (“the ‘952 Patent”), entitled “Sonar Imaging System For Mounting To Watercraft.”

3. In Humminbird’s fiscal year 2005, Humminbird introduced the first of its products to employ its side scan sonar technology. In the years that followed, Humminbird introduced an array of products that used this now patented technology. These products are sold by Humminbird under its “Side Imaging” registered trademark.

4. The marketplace has enthusiastically accepted these Humminbird “Side Imaging” products. They have become the industry leading high end, premium sonar fish finders used for inland (freshwater) and near shore (saltwater) sports fishing and recreational boating.

5. With knowledge that Johnson Outdoors had filed the aforementioned patent applications to protect its side scan sonar technology, and with knowledge that the United States Patent and Trademark Office had determined that claims in the ‘107 application were patentable, Navico expended substantial resources to inform the trade, and the relevant purchasers of fish finding products, that it too would use side scan sonar technology, and would launch the sale in the United States of its own side scan sonar products to compete directly with the Humminbird “Side Imaging” products. Navico calls these products its “Lowrance LSS-1 StructureScan Imaging System” (“StructureScan” products), which comprises an LSS-1 StructureScan Imaging Module and an LSS-1 Imaging Transducer assembly.

6. By about December, 2009, Navico commenced sales of its “StructureScan” products in the United States. These products, when used with a Lowrance High Definition System (“HDS”) display (collectively, the “Infringing Products”) in the manner instructed by

Navico, directly infringe one or more claims of the '952 Patent. The Infringing Products are now being offered for sale by Sportsman's Outfitters, L.L.C. in this District.

7. Therefore, Plaintiffs file this action to seek redress for Defendants' ongoing infringement of Plaintiffs' patent rights.

### **The Parties**

8. Plaintiff, Humminbird, is a corporation duly organized and existing under Alabama law, with its principal place of business in this District at 678 Humminbird Lane, Eufaula, Alabama 36027. Plaintiff, Johnson Outdoors, is a corporation duly organized and existing under Wisconsin law, with its principal place of business located at 555 Main Street, Racine, Wisconsin 53403. Humminbird is a wholly owned subsidiary of Johnson Outdoors.

9. Upon information and belief, defendant Navico is a corporation duly organized and existing under the laws of Delaware, having a place of business located at 12000 East Skelly Drive, Tulsa, Oklahoma 74128. Upon information and belief, Navico does business under the "Lowrance" brand for certain of its products, including the Infringing Products at issue here.

10. Upon information and belief, Sportsman's Outfitters, L.L.C. is a corporation organized and existing under the laws of Alabama and has a place of business at 1975 Ross Clark Circle, Dothan, Alabama 36301-5883.

### **Jurisdiction and Venue**

11. This is an action for patent infringement arising under the patent laws of the United States (35 U.S.C. § 100 et seq.).

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

13. Upon information and belief, this Court has personal jurisdiction over Navico because it regularly conducts business with and ships products to retailers authorized to sell those products in the Middle District of Alabama, including but not limited to Sportman's Outfitters, L.L.C. and therefore has substantial contacts with this District; because it has availed itself of an Alabama court; because it has interactive websites, [www.navico.com](http://www.navico.com) and [www.lowrance.com](http://www.lowrance.com), that advertise and promote the Infringing Products, as well as other products, in this District; because it directs and permits owners of Lowrance HDS displays in this District to download software from [www.lowrance.com](http://www.lowrance.com) to enable those displays to function with the "StructureScan" products; and because upon information and belief it has sold and offered to sell Infringing Products in this District through the aforementioned authorized retailers and has thereby injured Johnson Outdoors and Humminbird, a citizen of Alabama, in this District.

14. Upon information and belief, this Court has personal jurisdiction over Sportsman's Outfitters, L.L.C. because it regularly conducts business in this District and therefore has substantial contacts with this District; because it has a regular and established place of business in this District; and because it has offered to sell Infringing Products in this District and has thereby injured Plaintiffs in this District.

15. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c).

#### **Patent-in-Suit**

16. The '952 Patent has duly and legally issued to Johnson Outdoors as assignee of the inventors, David A. Betts, Robert W. Derrow, and David J. Howells. A true copy of the '952 Patent is attached hereto as Exhibit 1.

17. Humminbird is the exclusive licensee under the '952 Patent and under its license manufactures the Humminbird "Side Imaging" products in this District.

**Humminbird's "Side Imaging" Products  
Are Market Leaders in Performance and Sales**

18. Since Humminbird's introduction of its "Side Imaging" products in fiscal year 2004, they have become a remarkable success. Net sales have grown from zero to over \$19 million in fiscal year 2008. Total net sales over that four year period have exceeded \$37 million, despite the difficult market for the recreational boating and fishing industries in 2007 and 2008. The Humminbird "Side Imaging" products are Humminbird's most important, and profitable, products.

19. Humminbird "Side Imaging" products have received very positive testimonials from objective, actual users and opinion letters in the industry. For example, a visit to [www.yahogroups.com](http://www.yahogroups.com), typing in "Side Imaging Sonar" reveals an online community of over 5,000 members who have voluntarily joined to share their experiences with Humminbird "Side Imaging" products.

**Defendants' Infringing Activities**

20. Upon information and belief, Navico has long been engaged in the business of marketing underwater sonar products, including fish finder systems and their components. Upon information and belief, Navico's underwater sonar products have been losing market share to Humminbird's "Side Imaging" products in the high end, premium category.

21. Determined to compete more effectively against Humminbird's "Side Imaging" products, Navico developed its own products, the "StructureScan" products, that copy Humminbird's side scan sonar technology and products. Since about January, 2009, Navico has been demonstrating and displaying its "StructureScan" products.

22. Since about July 15, 2009, Navico has been indicating on its website, [www.lowrance.com](http://www.lowrance.com), that its “StructureScan” products are “Coming Very, Very Soon!”

23. In the October, 2009 issue of FLW Outdoors and in the January, 2010 issue of Bass Master magazine, both of which upon information and belief are distributed throughout the United States and in this District, Navico has advertised that the “StructureScan” product is “Now Available!”

24. More recently, Navico announced at [www.lowrance.com](http://www.lowrance.com) that “[l]ong-awaited shipments” of its “StructureScan” products have begun in the United States.

25. Upon information and belief, retailers of marine products -- such as Star Marine Depot at [www.starmarinedepot.com](http://www.starmarinedepot.com), Go There GPS at [www.gotheregps.com](http://www.gotheregps.com) and Marine Electronics Unlimited at [www.marine-electronics-unlimited.com](http://www.marine-electronics-unlimited.com) -- have been and are offering for sale throughout the United States, for delivery commencing in the fourth calendar quarter of 2009, the “StructureScan” product and the Lowrance HDS display.

26. Upon information and belief, Navico directly infringes one or more claims of the ‘952 Patent at least by using the “StructureScan” product mounted to a boat and operably connected to a Lowrance HDS display.

27. Upon information and belief, Navico has also actively induced and contributed to the infringement of one or more claims of the ‘952 Patent by others, by for example instructing purchasers of the “StructureScan” product to mount its Imaging Transducer assembly to a boat and to operably connect its Imaging Module to a Lowrance HDS display to create a sonar system with side scan sonar capability.

28. On January 26, 2010, after issuance of the ‘952 Patent, Sportsman’s Outfitters, L.L.C. offered to sell a “StructureScan” product and a Lowrance HDS display within this

District, with delivery promised for mid-February, 2010. A true copy of the corresponding Sales Receipt is attached hereto as Exhibit 2.

29. Plaintiffs have not licensed or otherwise authorized Defendants or their customers to make, use, import, sell, or offer to sell sonar systems covered by the claims of the '952 Patent.

30. As a result of Defendants' infringing activities, Johnson Outdoors and Humminbird have suffered substantial and irreparable harm and lack an adequate remedy at law. Unless restrained and enjoined by this Court, Defendants will continue their infringing activities, thereby causing Johnson Outdoors and Humminbird further irreparable harm.

**Claim for Patent Infringement Under 35 U.S.C. § 271**

31. Plaintiffs incorporate by reference each and every allegation of paragraphs 1 through 30 of this Complaint, as though set forth here in their entirety.

32. Since its issuance, Johnson Outdoors and Humminbird have been and still are, respectively, the sole owner and exclusive licensee of the '952 Patent including the right to sue and recover for any and all infringements thereof.

33. Defendants have directly infringed, contributorily infringed, and/or induced others to infringe the '952 Patent by making, using, importing, offering to sell and/or selling the invention defined by one or more claims of the '952 Patent, without authority or license of Johnson Outdoors or Humminbird.

34. By reason of Defendants' infringing activities, Johnson Outdoors and Humminbird have suffered, and will continue to suffer, substantial damages in an amount to be proven at trial.

35. Defendants' acts complained of herein have damaged and will continue to damage Johnson Outdoors and Humminbird irreparably. Johnson Outdoors and Humminbird have no adequate remedy at law for these wrongs and injuries. Johnson Outdoors and Humminbird are therefore entitled to preliminary and permanent injunctions restraining and enjoining Defendants from infringing the claims of the '952 Patent.

36. Upon information and belief, Navico's infringement has been deliberate and willful.

### **Prayer for Relief**

WHEREFORE, Plaintiffs respectfully request the Court to enter judgment that:

A. Pursuant to 35 U.S.C. § 271, Defendants have directly infringed, have contributorily infringed and have induced others to infringe the '952 Patent;

B. Pursuant to 35 U.S.C. § 283, Defendants and their subsidiaries, affiliates, officers, agents, servants, employees, attorneys, successors, and assigns, and all other persons and organizations in active concert or participation with them, be preliminarily and permanently enjoined from infringing the '952 Patent;

C. Pursuant to 35 U.S.C. § 284, Defendants be ordered to pay Plaintiffs their damages adequate to compensate Plaintiffs for Defendants' infringement of the '952 Patent, together with pre-judgment and post-judgment interest and costs;

D. Awarding Plaintiffs an accounting for acts of infringement not presented at trial and an award by the Court of additional damages for such acts of infringement;

E. Pursuant to 35 U.S.C. § 284, an award of treble damages due to the willful and deliberate nature of Navico's infringement of the '952 Patent;



F. Pursuant to 35 U.S.C. § 285, this case be declared exceptional and that Plaintiffs be awarded their reasonable attorneys' fees, interest and costs; and

G. Plaintiffs be granted such other relief as the Court deems just and proper.

**Jury Demand**

Plaintiffs hereby demand a jury trial as to all issues so triable.

Dated: January 26, 2010

Respectfully submitted,

By: 

David R. Boyd  
G. Lane Knight  
Balch & Bingham LLP  
105 Tallapoosa St., Suite 200  
P.O. Box 78 (36101-0078)  
Montgomery, AL 36104  
334/834-6500  
334/269-3115 (fax)  
[dboyd@balch.com](mailto:dboyd@balch.com)  
[lknight@balch.com](mailto:lknight@balch.com)

Edward E. Vassallo  
Douglas Sharrott  
FITZPATRICK, CELLA, HARPER & SCINTO  
1290 Avenue of the Americas  
New York, NY 10104-3800  
212/18-2208  
212/18-2200 (fax)  
[evassallo@fchs.com](mailto:evassallo@fchs.com)  
[dsharrott@fchs.com](mailto:dsharrott@fchs.com)

ATTORNEYS FOR PLAINTIFFS  
JOHNSON OUTDOORS INC. and  
JOHNSON OUTDOORS MARINE  
ELECTRONICS, INC.